

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

FRANKLYN ESPINOSA ALMONTE and FAUSTO
ESPINOSA ALMONTE,

Defendants.

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X

21-CR-496 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The Court has received a letter from defendant Fausto Espinosa Almonte, complaining that his attorney has not visited him for four months and seeking an order substituting a new counsel. The Court has provided a copy of that letter to defense counsel and has filed it under seal. The Court will hold a status conference to address the matter on April 6, 2023 at 2:00PM in Courtroom 15C at the 500 Pearl Street Courthouse.

The Second Circuit has held that “where a defendant voices a seemingly substantial complaint about counsel, the court should inquire into the reasons for dissatisfaction.” *McKee v. Harris*, 649 F.2d 927, 933 (2d Cir.1981). At the same time, however, the defendant does not have a right to repeatedly replace counsel, substituting one for another seriatim until he has found the ideal lawyer of his choice. The Court has set a firm trial date in this case. If Mr. Fausto Espinosa Almonte continues to be dissatisfied with his counsel, the Court will analyze the request under the four-factor test set forth by the Second Circuit: (1) whether defendant made a timely motion requesting new counsel; (2) whether the trial court adequately inquired into the matter; (3) whether the conflict between the defendant and his attorney was so great that it resulted in a total lack of communication preventing an adequate defense; and (4) whether the defendant substantially and unjustifiably contributed to a breakdown in communication. See *United States v. John Doe No. 1*, 272 F.3d 116 (2d Cir. 2001).

SO ORDERED.

Dated: March 24, 2023
New York, New York



LEWIS J. LIMAN
United States District Judge